

REMARKS/ARGUMENTS

Claims **1, 3-6, 12-13, 16-17, 19-21, and 23-39** were pending in this application. According to the March 7, 2007 Final Office Action and to the August 27, 2007 Advisory Action, claims **1, 3-6, 12-13, 16-17, 19-21, and 23-39** were rejected.

We have amended independent claim **1**, have amended dependent claims **3-6, 12-13, 17, 19-20, and 25-35**, and have added new dependent claims **40-47** to recite particular embodiments that we, in our business judgment, have currently determined to be commercially desirable. We have canceled independent claim **21** and dependent claims **16, 23-24, and 36-39**. We will pursue the subject matter of the previously presented and canceled claims in one or more continuing applications. The amendments do not introduce any new matter.

Accordingly, the following claims are under consideration:

- Independent claim **1**.
- Dependent claims **3-6, 12-13, 17, 19-20, 25-35, and 40-47**.

1.0 Response to the rejection of claim 1 under 35 U.S.C. § 101.

At paragraphs 2-3, pages 2-3 of the Office Action and at paragraph 1, page 2 of the Advisory Action, the Examiner rejected previously presented independent claim **1** under 35 U.S.C. § 101 as being directed to non-statutory subject matter and in particular, indicated that claim **1** recites an “abstract idea, and is not directed at a practical application of the abstract idea.”

The Federal Circuit has held that a claimed invention need only produce a useful, concrete, and tangible result to constitute statutory subject matter under 35 U.S.C. § 101. AT & T Corp. v. Excel Communications Inc., 172 F.3d 1352, 1356 (Fed. Cir. 1999); State Street Bank v. Signature Financial Trust, 149 F.3d 1368, 1373 (Fed. Cir. 1998).

Amended claim **1** recites in part an apparatus comprising a computing device programmed to:

based on the cost for the generated volume of internal reductions of carbon dioxide equivalent emissions, decrease for the first entity the amount of available cash; ...

based on the purchased credits of carbon dioxide equivalent emission reductions, decrease for the first entity the amount of available cash; and

cause the amount of available cash for the first entity to be displayed to the first user.

We respectfully submit that to “*decrease for the first entity the amount of available cash*” as recited by claim **1** and to “*cause the amount of available cash for the first entity to be displayed to the first user*” as further recited by claim **1** is a useful, concrete, and tangible result and that claim **1** is thereby directed to statutory subject matter under 35 U.S.C. § 101. Accordingly, we respectfully request that the rejection of claim **1** under 35 U.S.C. § 101 be withdrawn.

2.0 Response to the rejection of claim 21 under 35 U.S.C. § 101.

At paragraph 4, page 3 of the Office Action and at paragraph 2, page 2 of the Advisory Action, the Examiner rejected previously presented independent claim **21** under 35 U.S.C. § 101 as being directed to non-statutory subject matter. We respectfully disagree. Nonetheless, as indicated above, claim **21** has been cancelled and as such, the rejection of this claim is now moot.

3.0 Response to the rejection of claims 1, 3-6, 12-13, 16-17, 19-21, and 23-39 under 35 U.S.C. § 103(a).

At paragraphs 5-7, pages 3-8 of the Office Action and at paragraphs 2-3, page 2 of the Advisory Action, the Examiner rejected previously presented claims **1, 3-6, 12-13, 16-17, 19-21, and 23-39** under 35 U.S.C. § 103(a) as being unpatentable over Klein et al., U.S. Patent No. 6,709,330 (hereinafter Klein) in view of Sowinski, U.S. patent No. 6,601,033 (hereinafter Sowinski). As indicated, independent claim **21** and dependent claims **16, 23-24, and 36-39** have been cancelled.

Independent claim **1** recites in part an apparatus comprising a computing device programmed to:

receive from an administrator a representation of a marginal abatement cost curve, in which the marginal abatement cost curve comprises an indication of an amount of money for the first entity to produce internal reductions of carbon dioxide equivalent emissions;

based on a request received from a first user, generate for the first entity a computer-based representation of a volume of internal reductions of carbon dioxide equivalent emissions that the first entity may produce;

calculate, based on the marginal abatement cost curve, a cost for the generated volume of internal reductions of carbon dioxide equivalent emissions; [and]

based on the cost for the generated volume of internal reductions of carbon dioxide equivalent emissions, decrease for the first entity the amount of available cash.

Klein is directed at a system for “simulating a real world options trading environment.” Klein further discloses that within this system, “[s]tock and option prices are driven by semi-random movements of the price of each stock and the effect of news stories about a company.” (Klein, column 1, lines 13-15; column 11, lines 65-67). Contrary to claim 1, however, Klein has nothing to do with “carbon dioxide equivalent emissions” and as such, does not teach, suggest, nor disclose the above limitations of claim 1.

Sowinski discloses a system in which “individuals” can “collect pollution credits” based on “the amount of reduced pollution they achieve” and then sell these credits to buyers. (Sowinski, column 4, line 59 to column 5, line 32; column 8, line 53 to column 9, line 7). However, Sowinski does not teach, suggest, nor disclose to “*calculate, based on the marginal abatement cost curve, a cost for the generated volume of internal reductions of carbon dioxide equivalent emissions; [and] based on the cost for the generated volume of internal reductions of carbon dioxide equivalent emissions, decrease for the first entity the amount of available cash,*” as claim 1 recites.

In addition, even assuming, *arguendo*, that it would be obvious to combine the teachings of Klein and Sowinski as asserted by the Examiner, it appears that the combination may at most result in a simulation for trading pollution credits, the trading price of which credits may vary in a semi-random way and based on the effect of news stories. However, contrary to claim 1, such a combination is not to “*calculate, based on the marginal abatement cost curve, a cost for the generated volume of internal reductions of carbon dioxide equivalent emissions; [and] based on the cost for the generated volume of internal reductions of carbon dioxide equivalent emissions, decrease for the first entity the amount of available cash.*”

In addition, as indicated in our response of June 7, 2007, the Examiner failed to provide evidence of record to support a suggestion or motivation to modify Klein in view of Sowinski. In particular, at pages 4-5 of the Office Action, the Examiner appeared to merely conclude that because the Chicago Board of Trade supports both pollution credits and

options, one skilled in the art would have been motivated to modify the teachings of Klein in view of Sowinski. However, the Examiner presented no evidence of record to support the Examiner's conclusion, or in other words, presented no evidence of record that the Chicago Board of Trade supporting both pollution credits and options would have motivated one of ordinary skill in the art to modify Klein in view of Sowinski.

Accordingly, because Klein and Sowinski, alone or in combination, fail to teach, suggest, or disclose the above limitations of claim 1 and because the Examiner failed to provide evidence of record to support a suggestion or motivation to modify Klein in view of Sowinski, claim 1 is nonobvious in view Klein and Sowinski.

Turning to dependent claims 3-6, 12-13, 17, 19-20, and 25-35, and new dependent claims 40-47, because these claims depend from claim 1, these claims are also nonobvious in view of Klein and Sowinski for at least the reasons set forth above for claim 1.

4.0 Conclusion

Because Klein and Sowinski fail to teach or suggest claims 1, 3-6, 12-13, 17, 19-20, 25-35, and 40-47, these claims are clearly allowable. Favorable reconsideration and allowance of these claims are therefore requested.

We earnestly believe that this application is now in condition to be passed to issue, and such action is also respectfully requested. However, if the Examiner deems it would in any way facilitate the prosecution of this application, he is invited to telephone our undersigned representative at 212-294-7733.

Respectfully submitted,

/Glen R. Farbanish/

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Date

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